**HIGH COURT OF UTTARANCHAL AT NAINITAL**

Criminal Misc. Application No.593 OF 2004

Brahma Pal Singh s/o Raghuvir Singh
R/o Kasba Zhabreda, P.S. Zhabreda,
District Haridwar. .....Petitioner

**Versus**

1. State of Uttaranchal. .....Respondents.

Dated: 6.12.2006

**Hon'ble Rajesh Tandon, J.**

Heard Sri Parishit Saini counsel for the petitioner and A.G.A. for the State.

By the present application under section 482 Cr. P.C. the petitioner has prayed for quashing of the order dated 15.10.2004 passed by the District Judge, Haridwar in Criminal Revision No. 437 of 2003.

Briefly stated S.O. Police Station, Zhabreda has given 13 bullocks in the custody of the petitioner in Case Crime No. 70 of 1998, State Vs. Subodh under section 5/8 of U.P. Prevention of Cow Slaughter Act, 1995. The petitioner moved an application to the Special Judicial Magistrate, Roorkee that 13 bullocks were given in his custody on 13.7.1998 and till then he was maintaining the bullocks. He has incurred Rs. 110.80 per day towards fodder, medicines etc. for 90 days on the bullocks and thus he is entitled to recover Rs. 1,30, 000/-. The petitioner has relied upon the letter of the District Magistrate, Allahabad No.

4942/ST dated 28th July 1998, and charged the rates given in the said letter for maintenance of cattle. Special Judicial Magistrate vide order dated 10.9.2003 has directed that the State Government is liable to pay the expenses incurred by the petitioner for maintenance of 13 bullocks. Against the order of the Special Judicial Magistrate, State Government has preferred criminal version no. 437 of 2003 before the Session Judge, Haridwar. The Sessions Jude vide judgment and order dated 15.10.2004 has held that as the petitioner has taken custody of the bullocks wilfully, therefore, he is not entitled to get the expenses incurred in their maintenance, and set aside the order passed by he Special Judicial Magistrate, Haridwar. Against which, the petitioner has preferred the present application under section 482 Cr. P.C.

Custody of 13 bullocks was given to the petitioner in the process of law when these bullocks were recovered and were taken into custody by S.O. Police Zhabreda in Case Crime No. 70 of 1998 under section 5/8 of U.P. Prevention of Cow Slaughter Act. Although there was no condition of payment of expenses in the memo of custody of bullocks, even then expenses were incurred by the petitioner in the maintenance of the bullocks for 90 days and the petitioner is entitled to get the reimbursement of the said expenses. Such expenses were incurred by the petitioner by extending help to the State Government for maintaining law and order and thus the State Government is bound to pay the expenses incurred by the petitioner.

However, under the U.P. Prevention of Cow Slaughter Act 1955, it will be open for the State Government to realize the

amount either from the owner of the bullocks from the accused persons.

So far as the amount of expenses is concerned, the State Government may either pay the petitioner on the same rates as fixed by the District Magistrate, Allahabad vide letter dated 28th July 1998, or the rates which are admissible in the Department of Animal Husbandry for maintenance of live stock. The Magistrate concerned is directed to ensure compliance of the order.

Accordingly, application under section 482 Cr .P. C. is allowed.

**Rajesh Tandon, J.**

**06.12.006**
***Dhyani**